

REMARKS

This application has been reviewed in light of the Office Action dated January 30, 2007. Claims 65-71 are presented for examination. Claims 65-67 and 70 have been amended to define more clearly what Applicants regard as their invention, and Claim 71 has been added to provide Applicants with a more complete scope of protection. Claims 65 and 70 are in independent form. Favorable reconsideration is requested.

Claims 65-70 were rejected under 35 U.S.C. § 103(a) as being obvious from U.S. Patent No. 6,035,280 (*Christensen*) in view of Official Notice.

The aspect of the present invention set forth in Claim 65 is directed to a method for facilitating generation of a purchaser profile. The method includes receiving and processing consumer enrollment data and receiving a transaction file comprising a consumer ID and purchase data. The method further includes standardizing the transaction file using a retailer item identifier, where the standardizing characterizes a particular product or service across several of retailers. The method also includes merging the consumer enrollment data with the transaction file, and facilitating an analysis of a merged data file to generate a purchaser profile which reflects a consumer's purchases across one or more retailers.

By virtue of the features of Claim 65, information relating to a particular consumer purchase can be tracked regardless from which retailer the purchase was made. This allows particular consumer purchasing behaviors to be associated with specific products or product criteria across a manufacturer's distribution channels.

Christensen, as understood by Applicants, relates to an electronic discount couponing method and apparatus for generating an electronic list of coupons. Apparently, *Christensen* teaches storing in a database information relating to a “frequency card holder” and associating discounts with a consumer. Col. 10, lines 34-45. According to *Christensen*:

In step 506, a consumer may purchase products at a store and receive Virtual CouponTM values using his or her frequency card. During checkout, using traditional scanning equipment, the universal product code (UPC) and product numbers for each product may be retrieved and stored. Such data may be uploaded in step 507 for later use in generating demographic purchasing studies. Data concerning Virtual CouponTM values redeemed, as well as other purchase data may be downloaded to the SELLECTSOFTTM database. In step 507, the SELLECTSOFTTM database may be updated and appended with consumer purchase information from step 506 to provide a better profile of the purchasing habits of each consumer.

Col. 11, lines 49-60.

Nothing has been found in *Christensen* that would teach or suggest “standardizing [a] transaction file using a retailer item identifier, wherein said standardizing characterizes at least one of a particular product or service across a plurality of retailers,” as recited in Claim 65. This feature may be understood by referring, for example, to the specification at paragraphs 133-142. As shown in FIG. 11, for example, a purchaser profile begins with enrolling a consumer by receiving and processing the consumer enrollment data and facilitating the issuance of a consumer ID to the consumer. The consumer may use the consumer ID during a transaction with a retailer. When a consumer uses a consumer ID, the consumer ID, together with the purchase data associated with the retailer transaction, is captured at the point-of-sale. The retailer terminal creates and processes a transaction file comprising consumer-identifying data (*i.e.*, the consumer

ID) and purchase data (including a SKU number associated with each item purchased). The transaction file is then standardized, for example, based on the SKU and either a UPC or table of standard identifiers, so that independently identified products and services can be easily tracked and matched using corresponding standard identifiers.

The SKU is an identifier that is defined by a particular retailer and the UPC is an identifier that is defined by a particular manufacturer. The SKU has little meaning outside the retailer system. Thus, the standard identifier is used to characterize a particular product or service across multiple retailers.

At page 3 of the Office Action, the Examiner concedes that Christensen does not teach a plurality of retailers and asserts that “Official Notice is taken that it is well known to generate profiles for consumers across a plurality of retailers in order to make a better judgment as to keep track of what the customers are purchasing at the different establishments.” The Applicants respectfully disagree that hypothesized combination of *Christensen* and “Official Notice” would even be considered by one of skill in the art. This is supported by the fact that nothing in *Christensen* even discusses solving the problem of determining which SKU number corresponds to the manufacturer's UPC, much less in situations where the UPC's and SKU numbers of the various retailers are not tracked and matched.

Applicants' also respectfully point out that the Examiner has not provided any support for the above-mentioned Official Notice, and Applicants believe that it is entirely speculative. Applicants therefore respectfully traverse this assertion and, to the extent that the Examiner is relying on common knowledge in the art or on a scientific

theory, request that the Examiner cite a reference in support of this position, in accordance with M.P.E.P. §§ 2144.02 and 2144.03.

Applicants submit that a combination of *Christensen* and Official Notice, assuming such combination would even be permissible, would fail to teach, suggest or otherwise result in “standardizing said transaction file using a retailer item identifier, wherein said standardizing characterizes at least one of a particular product or service across a plurality of retailers,” as recited in Claim 65.

Accordingly, Applicants submit that Claim 65 is patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claim 70 recites features similar to those discussed above with respect to Claim 65 and is believed to be patentable for at least the same reasons as discussed above.

A review of the other art of record has failed to reveal anything that, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as applied against the independent claims herein. Therefore, those claims are respectfully submitted to be patentable over the art of record.

The other claims in this application depend from Claim 65 discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, individual consideration or reconsideration, as the case may be, of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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